

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CAROL MONSON,

Plaintiff,

-v-

No. 2:20-cv-12245-NGE-DRG
Hon. Nancy G. Edmunds

DePuy Orthopaedics, Inc., et al.,

Defendants.

FIRST AMENDED COMPLAINT AND RELIANCE ON JURY DEMAND

Plaintiff, CAROL MONSON, individually, by and through her attorneys, MUELLER LAW FIRM, by Wolfgang Mueller, and for her First Amended Complaint against Defendants DEPUY ORTHOPAEDICS, INC., DEPUY INC., DEPUY INTERNATIONAL LIMITED (“DePUY Defendants”), JOHNSON & JOHNSON, JOHNSON & JOHNSON SERVICES, INC., AND JOHNSON & JOHNSON INTERNATIONAL (“JOHNSON & JOHNSON Defendants”), in a civil action, states unto this Court as follows:

1. Plaintiff is a citizen of the State of Michigan.
2. DePUY Defendants are foreign citizens whose corporate headquarters are located at 700 Orthopaedic Drive, Warsaw, Indiana. DePUY Defendants conduct business in the State of Michigan.

3. JOHNSON & JOHNSON Defendants are foreign citizens and are headquartered at One Johnson & Johnson Drive, Raynham, Massachusetts. JOHNSON & JOHNSON Defendants conduct business in the State of Michigan.

4. Jurisdiction is founded upon the residence of the parties and damages which exceed \$75,000, exclusive of interest and costs.

5. Defendants the manufacturers and distributors of medical devices, including the Pinnacle metal-on-metal hip implant.

6. On October 27, 2009, Plaintiff underwent surgery for a right hip replacement. The implant device was the DePuy Pinnacle metal-on metal hip implant.

7. On May 18, 2010, Plaintiff underwent surgery for a left hip replacement. The implant device was the DePuy Pinnacle metal-on metal hip implant.

8. Since the surgery, Plaintiff has suffered from constant pain and trouble walking, and sitting and standing for long periods of time.

9. Plaintiff had the left Pinnacle hip implant explanted on September 24, 2015 at Genesys Regional Medical Center by Dr. Bruce Lawrence, DO.

10. Plaintiff had the right Pinnacle hip implant explanted on December 15, 2015 at Genesys Regional Medical Center by Dr. Bruce Lawrence, DO.

11. Plaintiff has suffered injuries as a result of implantation and

explanation of the DePuy Pinnacle hip implant manufactured by defendants as shall be fully set forth in Plaintiff's Facts Sheet and other responsive documents provided to the defendants and are incorporated by reference herein.

12. Plaintiff could not have known that the injuries she suffered were as a result of a defect in the Pinnacle hip implant until after the date the device was recalled from the market and Plaintiff came to learn of the recall.

13. As a direct and proximate result of Defendant's negligence and gross negligence set forth below, Plaintiff has suffered the following injuries and damages:

- A. Extreme pain and emotional suffering;
- C. The need for revision hip surgery;
- D. Economic losses;
- E. Other damages which may arise in the future.

COUNT I - NEGLIGENCE

14. Plaintiff incorporates by reference paragraphs 1 through 13 as if fully stated herein.

15. At the time of the design and manufacture of the subject hip replacement system, Defendant was under a duty to design the product to prevent an unreasonable risk of injury while the product was being used in a foreseeable manner.

16. Defendant breached the duty set forth above in at least the following respects:

- A. Negligently and recklessly designing, testing and manufacturing the subject hip replacement system;
- B. Negligently and recklessly failing to use appropriate and standard design principles, means and methods to identify the hazard of improper alignment;
- C. Negligently and recklessly failing to adequately test the subject hip replacement system;
- D. Negligently and recklessly failing to warn users of the incompatibility of the components of the Pinnacle hip implant system;
- E. Other negligent acts and omissions that will be discovered during the course of the lawsuit.

Accordingly, Plaintiff respectfully requests that the trier of fact award all damages allowed under Michigan law. Plaintiff also requests that this court award pre-judgment interest, costs and attorney fees so wrongfully incurred.

COUNT II - GROSS NEGLIGENCE

17. Plaintiff incorporates by reference paragraphs 1 through 16 as if fully stated herein.

18. Based upon information and belief, Defendant had actual knowledge of other instances of hip pain, swelling and clicking sounds as a result of the defects in the subject hip replacement system, prior to the date of manufacture of the subject assembly. Such information included over 400 reports of similar

complaints of pain, swelling, and problems walking, received by Defendant, which resulted in Defendant pulling the product from the Australian market in 2009.

19. Despite such knowledge, Defendant failed to make any design changes to eliminate the unreasonable risk of injury. Furthermore, Defendant knew that the defect in its hip replacement system would cause the same problems as those suffered by Plaintiff. Defendant willfully disregarded such danger in the manufacture and distribution of the subject hip implant device.

20. Defendant's conduct constitutes a reckless disregard for the safety of foreseeable users, including Plaintiff. Such conduct constitutes gross negligence.

21. As a direct and proximate result of the gross negligence described herein, Plaintiff has suffered the damages set forth above.

Accordingly, Plaintiff respectfully requests that the trier of fact award all damages allowed under Michigan law. Plaintiff also requests that this court award pre-judgment interest, costs and attorney fees so wrongfully incurred.

MUELLER LAW FIRM

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Dated: November 23, 2020

RELIANCE ON JURY DEMAND

Plaintiff relies on her previously filed jury demand in the above-captioned matter.

MUELLER LAW FIRM

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Dated: November 23, 2020

CERTIFICATE OF SERVICE

I hereby certify that on 11/23/20, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to counsel of record.

I further hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: N/A

s/Wolfgang Mueller
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